



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,802	03/24/2004	Anthony Brian Lee		4389

7590  
Anthony Brian Lee  
19726 Casner Road  
Ramona, CA 92065

07/09/2007

EXAMINER
----------

PAINTER, BRANON C

ART UNIT	PAPER NUMBER
----------	--------------

3609

MAIL DATE	DELIVERY MODE
-----------	---------------

07/09/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/807,802

**Applicant(s)**

LEE ET AL.

**Examiner**

Branon C. Painter

**Art Unit**

3609

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Specification***

1. The disclosure is objected to because of the following informalities: the disclosure is replete with commas not followed by spaces. Some examples (not an exhaustive list) include "pane,panel,multiple" (paragraph 1), "material,while" (paragraph 2), and "height,width,length" (paragraph 2). The examples listed should be rewritten as "pane, panel, multiple", "material, while", and "height, width, length". Appropriate correction is required in all instances, including those not provided above.

### ***Claim Objections***

2. Claims 2-13 are objected to because of the following informalities:
  - a. Claim 2, "wherein,it." For the purpose of this examination, the examiner presumes that "wherein,it" should read "wherein it." Appropriate correction is required.
  - b. Claims 2-13, "wherein, " is grammatically incorrect. For the purpose of this examination, the examiner presumes that "wherein, " should read "wherein." Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Art Unit: 3609

4. Claims 2-6 and 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The use of "it" is vague and indefinite, as it is not clear whether "it" is referring to the adapter, or something else. For the purposes of this examination, the examiner presumes that "it" refers to an adapter.
5. Claim 11 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase "create a catch" is vague and indefinite, as a catch was never defined or disclosed in the specification. For the purposes of this examination, the examiner presumes that a catch refers to any mechanism capable of receiving a glass pane.
6. Claim 6 recites the limitation "that purpose" in line 3. There is insufficient antecedent basis for this limitation in the claim. While a purpose was disclosed in claim 5, since claim 6 does not depend from claim 5, the purpose needs to be reintroduced in claim 6 to make the claim allowable. For the purpose of this examination, the examiner presumes that "that purpose" refers to "the purpose of sealing, protecting or cushioning the material which is to be inserted into the adapter" as stated in claim 5.

***Claim Rejections - 35 USC § 102***

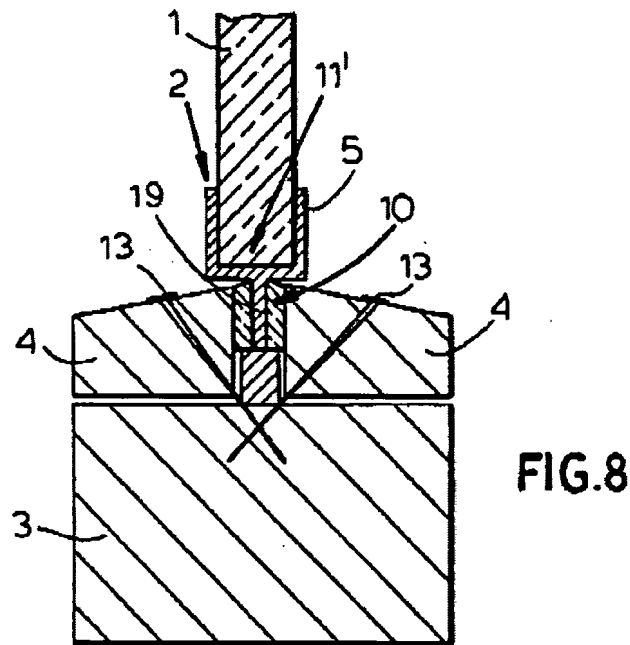
7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 3609

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-4 and 7-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Nolte et al. (U.S. Patent No. 5,628,155).
9. Regarding claim 1, Nolte et al. discloses a fire-resistant structural component with glass pane having all of the applicant's claimed structure, including:
  - a. "A channel type frame adapter..." ("channel" 11', Fig. 8).
  - b. "...which allows or facilitates the installation of a pane...into a frame which was made to accommodate a pane...of the same or another thickness or size." ("rib" 19 allowing installation into "glass-retaining bead" 4, Fig. 8).
  - c. The examiner further notes "the channel 11' is formed with a rib 19 which is received in the frame groove while the glazing verge 2 is received in the channel" (column 8, lines 37-39).



Reproduced from U.S. Patent No. 5,628,155

10. Regarding claim 2, Nolte et al. discloses an adapter designed to encase the edge of a pane and which is designed to be inserted into a frame ("channel" 11' encasing "glazing verge" 2, Fig. 8).
11. Regarding claim 3, Nolte et al. discloses an adapter made of a rigid material ("channel" 11', Fig. 8; "The channel 11 is composed of metal," column 7, lines 39-40).
12. Regarding claim 4, Nolte et al. discloses an adapter made of a flexible material ("channel" 11', Fig. 8). The examiner notes that "The shanks 11a and 11b of the channel 11 may be bent" (column 7, line 54), confirming that the metal adapter is flexible.
13. Regarding claim 7, Nolte et al. discloses an adapter whose width may vary ("The shanks 11a and 11b of the channel 11 may be bent toward one another so that they

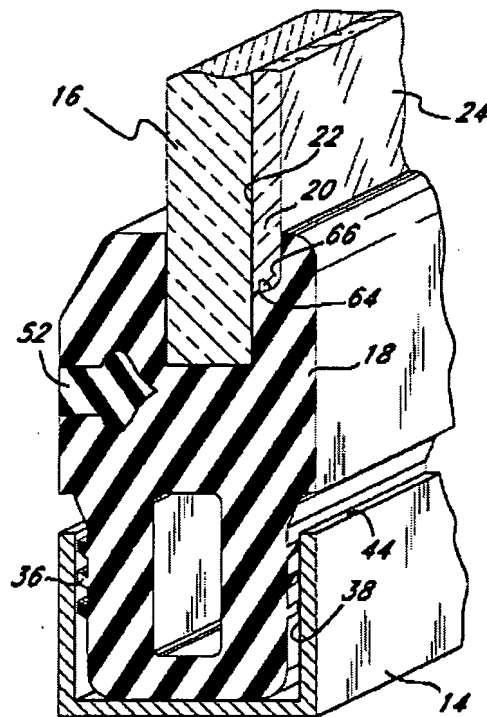
Art Unit: 3609

are partly spread by insertion of the glazing verge of the glass pane between them to ensure an intimate contact," column 7, lines 54-57). The examiner further notes that any of the adapter's dimensions may be altered during production.

14. Regarding claim 8, Nolte et al. discloses an adapter whose parts form 90 degree angles ("channel" 11', Fig. 8).
15. Regarding claim 9, Nolte et al. discloses an adapter whose parts form angles less than 90 degrees ("The shanks 11a and 11b of the channel 11 may be bent toward one another so that they are partly spread by insertion of the glazing verge of the glass pane between them to ensure an intimate contact," column 7, lines 54-57). The examiner notes that if the channel shanks are bent inward, they produce angles less than 90 degrees.
16. Regarding claim 10, Nolte et al. discloses an adapter formed with angles, bends or curves ("The shanks 11a and 11b of the channel 11 may be bent toward one another so that they are partly spread by insertion of the glazing verge of the glass pane between them to ensure an intimate contact," column 7, lines 54-57).
17. Regarding claim 11, Nolte et al. discloses an adapter formed to create a catch ("The shanks 11a and 11b of the channel 11 may be bent toward one another so that they are partly spread by insertion of the glazing verge of the glass pane between them to ensure an intimate contact," column 7, lines 54-57).
18. Regarding claim 12, Nolte et al. discloses an adapter made as a single piece ("channel" 11', Fig. 8).

Art Unit: 3609

19. Claims 1, 5, and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Bargados et al. (U.S. Patent No. 5,809,707).
20. Regarding claim 1, Bargados et al. discloses a window system having all of the applicant's claimed structure, including:
- a. "A channel type frame adapter..." ("elastomeric mount" 18, Fig. 2).
  - b. "...which allows or facilitates the installation of a pane...into a frame which was made to accommodate a pane...of the same or another thickness or size." ("longitudinal ribs" 36 allowing installation into "frame" 14, Fig. 2).



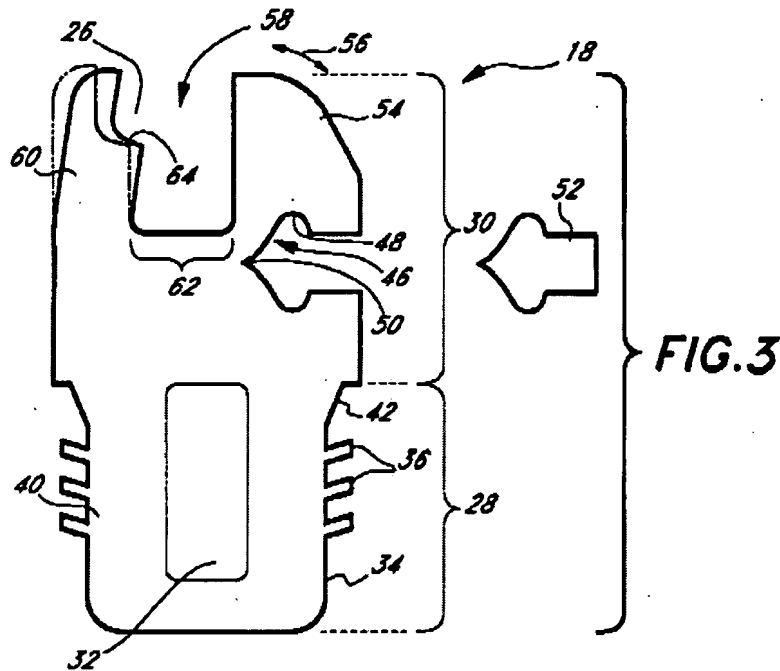
Reproduced from U.S. Patent No. 5,809,707

21. Regarding claim 5, Bargados et al. discloses an adapter made from a sealing and cushioning material ("Mount 18 may be fabricated as a rubber...structure," column 4, lines 15-16).



Art Unit: 3609

22. Regarding claim 13, Bargados et al. discloses an adapter with an adjustable part ("arm" 60, Fig. 3). The examiner notes the arm's flexibility allows it to adjust to the insertion of a glass pane.



Reproduced from U.S. Patent No. 5,809,707

### ***Claim Rejections - 35 USC § 103***

23. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3609

24. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

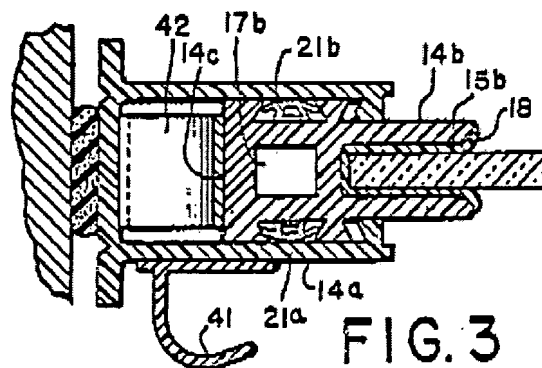
25. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nolte et al.

(U.S. Patent No. 5,628,155) in view of Miller (U.S. Patent No. 4,841,696).

- a. Nolte et al. discloses a fire-resistant structural component with glass pane as set forth above in claim 1.
- b. Nolte et al. does not expressly disclose that a sealing or cushioning material is inserted between the frame adapter and the glass pane.
- c. Miller discloses a sealing or cushioning material inserted between a frame and a glass pane ("gasket material" 18, Fig. 3). Applying gasket material between the framing piece and glass pane as taught by Miller creates a firm, air-tight fit between the frame and pane.
- d. The examiner further notes motivation for combining the references as set forth in Miller: "A gasket material 18 is provided in this glazing channel for a firm, substantially air-tight fit between pane 11 and frame 10" (column 4, lines 8-10).

Art Unit: 3609

- e. The examiner further notes that it is notoriously well-known in the art to apply a sealing material between a glass pane and its frame in order to protect the area inside the glass pane from the weather outside the glass pane.
- f. Nolte et al. and Miller are analogous art because both are from the field of endeavor of window frames.
- g. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to apply the gasket material taught by Miller to the frame-glass pane connection of Nolte et al. in order to provide sanctuary from the elements by means of an air-tight seal.



Reproduced from U.S. Patent No. 4,841,696

### ***Conclusion***

26. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Art Unit: 3609

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Branon C. Painter whose telephone number is (571) 270-3110. The examiner can normally be reached on Mon-Fri 7:30AM-5:00PM, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Victor Batson can be reached on (571) 272-6987. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Victor Batson  
Supervisory Patent Examiner  
Art Unit 3609

Branon Painter  
06/05/2007